

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

Translation

To:

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

Applicant's or agent's file reference

PC-9171

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/JP2004/006469

International filing date (day/month/year)

07.05.2004

Priority date (day/month/year)

09.05.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

THE NISSHIN OILIO GROUP, LTD.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/JP

Authorized officer

Facsimile No.

Telephone No.

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Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item
- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in the international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
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International application No.

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims <u>1-31</u>	YES	
	Claims _____	NO	
Inventive step (IS)	Claims _____	YES	
	Claims <u>1-31</u>	NO	
Industrial applicability (IA)	Claims <u>1-31</u>	YES	
	Claims _____	NO	
2. Citations and explanations:			
<p>Document 1: JP, 7-187947, A (The Nisshin Oil Mills, Ltd.), 25 July, 1995 (25.07.95) Claims, [0005]- [0007], [0017], [0024]</p> <p>Document 2: JP, 7-173380, A (Mitsubishi Chemical Corporation), 11 July, 1995 (11.07.95) Claims, [0001], [0015]</p> <p>Document 3: JP, 8-143513, A (Taiyo Kagaku Co., Ltd.), 4 June, 1996 (04.06.96), Claims, [0001], [0003], [0011]</p> <p>Document 4: JP, 11-262653, A (The Nisshin Oil Mills, Ltd.), 25 July, 1999 (25.07.99), Claims, [0008]</p> <p>Document 5: JP, 2003-55128, A (Sakamoto Yakuhin Kogyo Co., Ltd.), 26 February, 2003 (26.02.03), Claims</p> <p>Document 6: JP, 62-250941, A (Taiyo Kagaku Co., Ltd.), 31 October, 1987 (31.10.87), Claims, lines 11-15 in the right-hand bottom column of page 2</p> <p>Claims 1-31</p> <p>Claims 1-31 do not appear to involve an inventive step on account of documents 1-6 cited in the ISR. In document 1 described is a cosmetic containing polyglycerol fatty acid ester, of which average polymerization degree is 3-15 and total content of cyclic structural subsystem is ≤5 wt%, and oily material. Also described therein is that the hydroxyl value of said fatty acid ester is 320-610. In document 2 described is a composite comprising a polyglycerol fatty acid ester with 8-24 carbon number and ≥4 average polymerization degree and oily material. Also described therein is that said composite can be used in cosmetics. In document 3 described is a polyglycerol fatty acid ester from which low molecular weight reaction products are removed. Also described therein is that the carbon number of said fatty acid ester radical is 8-22, and that said polyglycerol is a mixture of various polyglycerols with varied polymerization degrees, but that there is an issue in which those polyglycerols with lower polymerization degrees are selectively esterified, while the higher molecular weight polymers are not esterified([0012]). In document 4 described is a cosmetic containing a fatty acid ester of oleic acid and polyglycerol with a 3-15 average polymerization degree and oily material. Based on the descriptions of documents 1-4 it is easy for a person skilled in the art to esterify polyglycerol mixtures having a preferable composition attained by removing cyclic structural subsystem and/or the lower molecular weight polymers with any fatty acid of suitable carbon number</p>			

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

for combining with oily material to use in a cosmetic.

As described in document 5 it is publicly known to use a composite containing a polyglycerol fatty acid ester and oily material for bathing agents and/or cleansing agents. As described in documents 5-6 it is also well-known to use alkylglucoside, lecithin and/or polyhydric alcohol fatty acid ester together with a polyglycerol fatty acid ester. Therefore it is easy for a person skilled in the art to restrict fields of use of such a composite or to use such a composite together with other publicly known ingredients.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

In claims 1-31 the ends of sentences describing inventions in Japanese are concluded by such phrases as “is.”, which makes the subject of invention unclear. By the way, in this written opinion examination is performed by treating the inventions as relating to the field of cosmetics.